

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

RAMON HOSEA MCGRAW,
ADC #142102

PLAINTIFF

v.

4:12CV00217-JLH-JJV

STATE OF ARKANSAS; *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a new hearing for this purpose before either the District Judge or Magistrate Judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy or the original of any documentary or other non-testimonial evidence

desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

I. ANALYSIS

On April 10, 2012, Mr. McGraw filed a *pro se* Complaint (Doc. No. 1) and an Application to Proceed Without Prepayment of Fees and Affidavit. (Doc. No. 5.) On May 3, 2012, Plaintiff’s Application was granted and he was informed of his duty to comply with Local Rule of the Court 5.5(c)(2)¹. (Doc. No. 12 at 2-3.) Local Rule 5.5(c)(2) requires a *pro se* plaintiff to “promptly” notify the Clerk of any change in his address.

The docket reveals that Mr. McGraw has failed to comply with Local Rule 5.5(c)(2). All mail sent by the Court since July 17, 2013, has been returned undeliverable. (Doc. Nos. 59-64.) *Pro se* litigants are required to follow the same rules of procedure, including the local court rules, that govern other litigants. *See Green v. Dorrell*, 969 F.2d 915, 917 (10th Cir. 1992); *Jarzynka v. St.*

¹Local Rule of the Court 5.5(c)(2), states:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

Loc. R. 5.5(c)(2).

Thomas Univ. of Law, 310 F. Supp. 2d 1256, 1264 (S.D. Fla. 2004). Therefore, it is recommended that Mr. McGraw's Complaint (Doc. No. 1) be DISMISSED without prejudice.

II. CONCLUSION

IT IS, THEREFORE, RECOMMENDED THAT:

1. Plaintiff's Complaint (Doc. No. 1) should be DISMISSED without prejudice.
2. The Court should certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from an Order adopting these recommendation and an accompanying Judgment would not be taken in good faith.

DATED this 17th day of October, 2013.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE